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S.B. CIVIL MISC. APPEAL NO.567/2000.
The Oriental Insurance Co. Ltd.
Vs.
Laxmi Chand & Anr.

Date of Order :: 11.09.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Anil Bachhawat, for the appellant.

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This appeal against the award dated 05.05.2000 made by the Motor Accidents Claims Tribunal, Udaipur in Claim Case No.366/1996 has been preferred by the insurer of the vehicle involved in the accident.

By the impugned award, the Tribunal allowed compensation in the sum of Rs.1,06,000/- to the injured claimant Laxmi Chand Jain. The appeal was submitted impleading the said claimant Laxmi Chand Jain as respondent No.1. Later on, it was noticed by the appellant on an application moved by Smt. Jayanti Devi, wife of the Laxmi Chand Jain, that the said Laxmi Chand Jain had expired on 11.01.2005, i.e. after passing of the award. The said Smt. Jayanti Devi by way of her application dated 07.03.2005 made a request that she be substituted as respondent in place of the deceased respondent No.1. The appellant thereafter moved an application on 19.03.2005 seeking substitution of the said

Smt. Jayanti Devi as respondent in place of deceased respondent No.1. Notice of the said application was issued to the proposed legal representative for the date of hearing of 17.10.2005 but it has been reported on the said notices with reference to an information stated by Up-Sarpanch of Gram Panchayat Semalwada that the said Smt. Jayanti Devi had expired about a year back. However, a certificate dated 06.10.2005 issued by the Sarpanch of the said Panchayat is attached stating that the said Smt. Jayanti Devi had expired about four months back.

In view of the above, it being apparent that the appellant had come to know about the death of original respondent No.1 and so also the death of his proposed legal representative, noticing all the facts this Court granted four weeks' time on 29.03.2006 to the appellant to take appropriate steps.

Steps having not been taken, the matter was again placed before the Court on 20.07.2006 when the appellant was granted two weeks' time to do the needful else the appeal be listed for rejection before the Court. Steps have still not been taken and the learned counsel appearing for the appellant-insurer submits that the appellant has not been able to ascertain the particulars of the other legal representatives to be substituted in place of the deceased claimant-respondent

No.1 and prays for yet further time. On the facts noticed above, there appears no justification for extending any further opportunity. The appeal has already abated against the deceased respondent-claimant and in view of its subject-matter, the appeal cannot be proceeded further.

The appeal abates and be consigned to record as such.

(DINESH MAHESHWARI), J.

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